

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

THOMAS J. CAPANO,

Petitioner,

v.

Civ. Act. No. 06-58-KAJ

THOMAS L. CARROLL,
Warden, and **CARL C. DANBERG,**
Attorney General for the State
of Delaware,

Respondents.

**MOTION FOR EXTENSION OF TIME TO FILE
CERTIFIED STATE COURT RECORDS**

1. The petitioner, Thomas Capano, has applied for federal habeas relief challenging his 1999 Delaware Superior Court conviction and sentence for first degree murder. D.I. 1. The undersigned filed an answer to the petition on July 28, 2006.

2. By the terms of the Court's order, the respondents are directed to attach to the answer certified copies of the state court records material to the questions raised in the petitioner's appeal.

3. Due to the large caseload of prosecutors in the appeals division, the undersigned have been unable to obtain the certified state court records in order to file them contemporaneously with the answer. The undersigned anticipate obtaining and copying the records on or before September 1, 2006.

4. Respondents submit that an extension of time to September 1, 2006 in which to file certified copies of the material portions of the state court records in this case is reasonable. Respondents submit herewith a proposed order.

/s/ Loren C. Meyers
Chief of Appeals Division
Del. Bar ID 2210
loren.meyers@state.de.us

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Del. Bar ID 3759
elizabeth.mcfarlan@state.de.us

Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500

Date: July 28, 2006

RULE 7.1.1 CERTIFICATION

I hereby certify that I have contacted counsel for the petitioner, Joseph M. Bernstein, Esquire, who has informed me that he has no objection to the subject matter of this motion.

/s/ Elizabeth R. McFarlan
Deputy Attorney General

Counsel for Respondents

Date: July 28, 2006

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2006, I electronically filed a motion for extension of time to file state records with the Clerk of Court using CM/ECF which will send notification of the filing to the following registered participant:

Joseph M. Bernstein, Esquire
Suite 302
800 N. King St.
Wilmington, DE 19801
jmbern001@comcast.net

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759
elizabeth.mcfarlan@state.de.us

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

THOMAS J. CAPANO,

Petitioner,

v.

Civ. Act. No. 06-58-KAJ

THOMAS L. CARROLL,
Warden, and **CARL C. DANBERG,**
Attorney General for the State
of Delaware,

Respondents.

ORDER

This ____ day of _____, 2006,

WHEREAS, respondents having requested an extension of time in which to file certified copies of the state court records, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that the certified state court records shall be filed on or before September 1, 2006.

United States District Judge